

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BILLY DRIVER, JR.,

Plaintiff,

v.

APPROVED COMPUTER TABLET
PROGRAM, et al.,

Defendants.

No. 2:21-cv-0761 KJM DB P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims that defendants failed to provide him with a computer tablet. Presently before the court is plaintiff's motion to e-file. For the reasons set forth below, the court will deny the motion and direct plaintiff to either pay the filing fee or submit an application to proceed in forma pauperis.

I. Motion to E-File

Plaintiff has moved for leave to e-file. (ECF No. 6.) In support of his motion plaintiff alleges that he is not receiving mail, his mail is being unlawfully confiscated, and his mail is being held until he misses court deadlines. (ECF No. 6 at 3.) Plaintiff has not provided any additional information regarding the alleged mail theft.

The Local Rules generally require pro se parties to file and serve paper documents. See E.D. Cal. Local Rule 133(a). However, a pro se litigant may request an exception by filing a

“motion [] setting out an explanation of reasons for the exception.” E.D. Cal. Local Rule 133(b)(2), (3). Any motion for e-filing should indicate whether plaintiff is familiar with the requirements applicable to electronic filing in this court, and whether he has access to the hardware and software needed for electronic filing. Additionally, if plaintiff were approved for electronic filing, he would no longer receive documents by mail and the court would not accept paper documents from him.

Because plaintiff has not indicated whether he is familiar with the e-filing requirements or if has the access necessary for e-filing the court will deny his request without prejudice.

II. In Forma Pauperis

By order dated July 28, 2021, plaintiff was directed to pay the filing fee in full or submit a properly completed in forma pauperis application within thirty days. (ECF No. 5.) Those thirty days have passed, and plaintiff has not paid the filing fee, submitted an application to proceed in forma pauperis, or requested additional time to either pay the fee or submit an application.¹

In light of plaintiff’s pro se status and his allegation that mail is being withheld from him, the court will grant him another opportunity to either pay the filing fee in full or submit a properly completed in forma pauperis application. Plaintiff is warned that failure to comply with this order will result in a recommendation that this action be dismissed for failure to prosecute and failure to comply with court orders. See Local Rule 110; Fed. R. Civ. P. 41(b).

III. Conclusion

For the reasons set forth above, IT IS HEREBY ORDERED that:

1. Plaintiff’s motion to e-file (ECF No. 6) is denied without prejudice;
2. Plaintiff shall submit, within thirty days from the date of this order, an affidavit in support of his request to proceed in forma pauperis on the form provided by the Clerk of Court, or

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¹ The court notes that plaintiff may wish to avoid submitting an in forma pauperis application because other judges in this district have determined that he has accrued three strikes under 28 U.S.C. § 1915(g). See Driver v. ADA 1824 Panels, No. 1:19-cv-1718 SAB (PC), 2019 WL 9100333 (E.D. Cal. Dec. 17, 2019); Driver v. Garry, No. 2:20-cv-0800 TLN AC P, 2020 WL 4349853 (E.D. Cal. July 29, 2020); Driver v. CHCF, No. 2:21-cv-0744 EFB P, 2021 WL 3477344 (E.D. Cal. June 14, 2021).

1 the required fees in the amount of \$402.00; plaintiff's failure to comply with this order will result
2 in a recommendation that this action be dismissed; and

3 3. The Clerk of the Court is directed to send plaintiff a new Application to Proceed In
4 Forma Pauperis By a Prisoner along with this order.

5 Dated: December 7, 2021

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9 DEBORAH BARNES
10 UNITED STATES MAGISTRATE JUDGE
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16 DB/DB Prisoner Inbox/Civil Rights/R/driv0761.3a+e-file
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